IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.2258/07
Thakur Devi Singh Vs. Smt. Prem Kumari & Ors.

3.09.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Shashi Shekhar Gaur for petitioner.

The petitioner has challenged the order passed by the learned Additional District and Sessions Judge (Fast Track) No.4, Jaipur City, Jaipur whereby that Court send two documents namely Ex.A-9 and A-16 which are respectively will and the gift deed to the handwriting expert Shri Rajkumar instead of sending the same to Ms. Renu Kumari, the expert whose name was suggested by the plaintiff-petitioner. Learned counsel for the petitioner argued that earlier when similar application was made by the petitioner, it was rejected by

the trial court by order dated 23.1.2001 on the premise that the petitioner has not produced the admitted document with which the signature of late Shri Hari Singh was sought to be compared. Subsequently, when the matter was fixed for arguments, the learned trial court on its own decided to send aforesaid document for expert examination as to the correctness of signatures of late Shri Hari Singh and asked the parties to submit the names of experts. Instead of sending the document to the expert whose name was suggested by the plaintiff petitioner, it was send to another expert suggested by the defendant, the order therefore suffers from illegality. It was argued that the question about correctness of document was raised by the plaintiff-petitioner, therefore, the expert suggested by the plaintiff ought to

have been preferred over the other expert.

Having heard the learned counsel for the petitioner, I do not find that the order passed by the learned trial court suffer from any illegality as may warrant interference by this Court. The prayer of the petitioner having been accepted, he cannot further insist on sending the document to the expert of his choice particularly when no allegation of incompetence or malafide has been made against the other expert. Apart from the report of the expert, the petitioner has had the opportunity to lead the evidence, therefore, even otherwise, I do not find any merit in this writ petition.

The writ petition is dismissed.

(Mohammad Rafiq),J.

Rs/-